

Part III - Administrative, Procedural, and Miscellaneous

Extension of Replacement Period for Livestock Sold on Account of Drought in Specified Counties

Notice 2009-81

SECTION 1. PURPOSE

This notice provides guidance regarding an extension of the replacement period under § 1033(e) of the Internal Revenue Code for livestock sold on account of drought in specified counties.

SECTION 2. BACKGROUND

.01 Nonrecognition of Gain on Involuntary Conversion of Livestock. Section 1033(a) generally provides for nonrecognition of gain when property is involuntarily converted and replaced with property that is similar or related in service or use. Section 1033(e)(1) provides that a sale or exchange of livestock (other than poultry) held by a taxpayer for draft, breeding, or dairy purposes in excess of the number that would be sold following the taxpayer's usual business practices is treated as an involuntary conversion if the livestock is sold or exchanged solely on account of drought, flood, or other weather-related conditions.

.02 Replacement Period. Section 1033(a)(2)(A) generally provides that gain from an involuntary conversion is recognized only to the extent the amount realized on the conversion exceeds the cost of replacement property purchased during the replacement period. If a sale or exchange of livestock is treated as an involuntary conversion under

§ 1033(e)(1) and is solely on account of drought, flood, or other weather-related conditions that result in the area being designated as eligible for assistance by the federal government, § 1033(e)(2)(A) provides that the replacement period ends four years after the close of the first taxable year in which any part of the gain from the conversion is realized. Section 1033(e)(2)(B) provides that the Secretary may extend this replacement period on a regional basis for such additional time as the Secretary determines appropriate if the weather-related conditions that resulted in the area being designated as eligible for assistance by the federal government continue for more than three years. Section 1033(e)(2) is effective for any taxable year with respect to which the due date (without regard to extensions) for a taxpayer's return is after December 31, 2002.

SECTION 3. EXTENSION OF REPLACEMENT PERIOD UNDER § 1033(e)(2)(B)

Notice 2006-82, 2006-2 C.B. 529, provides for extensions of the replacement period under § 1033(e)(2)(B). If a sale or exchange of livestock is treated as an involuntary conversion on account of drought and the taxpayer's replacement period is determined under § 1033(e)(2)(A), the replacement period will be extended under § 1033(e)(2)(B) and Notice 2006-82 until the end of the taxpayer's first taxable year ending after the first drought-free year for the applicable region. For this purpose, the first drought-free year for the applicable region is the first 12-month period that (1) ends August 31; (2) ends in or after the last year of the taxpayer's 4-year replacement period determined under § 1033(e)(2)(A); and (3) does not include any weekly period for which exceptional, extreme, or severe drought is reported for any location in the applicable region. The applicable region is the county that experienced the drought conditions on

account of which the livestock was sold or exchanged and all counties that are contiguous to that county.

A taxpayer may determine whether exceptional, extreme, or severe drought is reported for any location in the applicable region by reference to U.S. Drought Monitor maps that are produced on a weekly basis by the National Drought Mitigation Center. U.S. Drought Monitor maps are archived at www.drought.unl.edu/dm/archive.html.

In addition, Notice 2006-82 provides that the Internal Revenue Service will publish in September of each year a list of counties, districts, cities, or parishes (hereinafter “counties”) for which exceptional, extreme, or severe drought was reported during the preceding 12 months. Taxpayers may use this list instead of U.S. Drought Monitor maps to determine whether exceptional, extreme, or severe drought has been reported for any location in the applicable region.

The Appendix to this notice contains the list of counties for which exceptional, extreme, or severe drought was reported during the 12-month period ending August 31, 2009. Under Notice 2006-82, the 12-month period ending on August 31, 2009, is not a drought-free year for an applicable region that includes any county on this list. Accordingly, for a taxpayer who qualified for a four-year replacement period for livestock sold or exchanged on account of drought and whose replacement period is scheduled to expire at the end of 2009 (or, in the case of a fiscal year taxpayer, at the end of the taxable year that includes August 31, 2009), the replacement period will be extended under § 1033(e)(2) and Notice 2006-82 if the applicable region includes any county on this list. This extension will continue until the end of the taxpayer’s first taxable year ending after a drought-free year for the applicable region.

SECTION 4. DRAFTING INFORMATION

The principal author of this notice is Seoyeon Park of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this notice contact Ms. Park at (202) 622-4960 (not a toll-free call).

APPENDIX

Alabama

Counties of Calhoun, Chambers, Cherokee, Cleburne, DeKalb, Jackson, Lee, Madison, Randolph, Russell.

California

Counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Ventura, Yolo, Yuba.

Colorado

Counties of Baca, Bent, Las Animas, Prowers.

Florida

Counties of Alachua, Brevard, Broward, Charlotte, Citrus, Collier, DeSoto, Flagler, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lake, Lee, Levy, Manatee, Marion, Martin, Miami-Dade, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Seminole, Sumter, Volusia.

Georgia

Counties of Appling, Baldwin, Banks, Barrow, Bartow, Ben Hill, Bibb, Bleckley, Bulloch, Burke, Butts, Candler, Carroll, Catoosa, Chattahoochee, Chattooga, Cherokee, Clarke, Clayton, Cobb, Coffee, Columbia, Coweta, Crawford, Crisp, Dade, Dawson, DeKalb, Dodge, Dooly, Douglas, Elbert, Emanuel, Fannin, Fayette, Floyd, Forsyth, Franklin, Fulton, Gilmer, Glascock, Gordon, Greene, Gwinnett, Habersham, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jeff Davis, Jefferson, Jenkins, Johnson, Jones, Lamar, Laurens, Lincoln, Lumpkin, McDuffie, Macon, Madison, Marion, Meriwether, Monroe, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Peach, Pickens, Pike, Polk,

Pulaski, Putnam, Rabun, Richmond, Rockdale, Schley, Screven, Spalding, Stephens, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Taylor, Telfair, Toombs, Towns, Treutlen, Troup, Twiggs, Union, Upson, Walker, Walton, Warren, Washington, Webster, Wheeler, White, Whitfield, Wilcox, Wilkes, Wilkinson.

Hawaii

Counties of Hawaii, Honolulu, Kauai, Maui.

Kansas

Counties of Barber, Clark, Comanche, Hamilton, Meade, Morton, Seward, Stanton, Stevens.

Kentucky

Counties of Adair, Allen, Anderson, Barren, Bath, Bell, Bourbon, Boyle, Breathitt, Butler, Calloway, Carter, Casey, Christian, Clark, Clay, Clinton, Cumberland, Edmonson, Elliott, Estill, Fayette, Fleming, Floyd, Franklin, Garrard, Grayson, Green, Hardin, Harlan, Harrison, Hart, Jackson, Jessamine, Johnson, Knott, Knox, Larue, Laurel, Lawrence, Lee, Leslie, Letcher, Lincoln, Logan, McCreary, Madison, Magoffin, Marion, Martin, Menifee, Mercer, Metcalfe, Monroe, Montgomery, Morgan, Muhlenberg, Nelson, Nicholas, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Warren, Washington, Wayne, Whitley, Wolfe, Woodford.

Louisiana

Parishes of Assumption, Lafourche, St. Martin, St. Mary, Terrebonne.

Michigan

Counties of Delta, Dickinson, Gogebic, Houghton, Iron, Marquette, Menominee, Ontonagon.

Minnesota

Counties of Aitkin, Anoka, Blue Earth, Carlton, Carver, Cass, Chisago, Crow Wing, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Itasca, Kanabec, Le Sueur, Martin, Olmsted, Pine, Ramsey, Rice, Scott, Sherburne, Sibley, Wabasha, Waseca, Washington, Watonwan, Winona, Wright.

Montana

Counties of Cascade, Custer, Daniels, Dawson, Fallon, Flathead, Glacier, Lake, Lewis and Clark, Liberty, Lincoln, McCone, Pondera, Prairie, Richland, Roosevelt, Sanders,

Sheridan, Teton, Toole, Valley, Wibaux.

Nevada

Carson City. Counties of Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lincoln, Lyon, Nye, Pershing, Storey, Washoe, White Pine.

New Mexico

Counties of Chaves, DeBaca, Dona Ana, Eddy, Guadalupe, Lea, Lincoln, Luna, Otero, Roosevelt, Sierra, Socorro, Torrance, Union.

North Carolina

Counties of Alexander, Alleghany, Ashe, Avery, Bertie, Buncombe, Burke, Cabarrus, Caldwell, Camden, Catawba, Cherokee, Chowan, Clay, Cleveland, Currituck, Dare, Edgecombe, Gaston, Gates, Graham, Greene, Halifax, Haywood, Henderson, Hertford, Iredell, Jackson, Lincoln, McDowell, Macon, Madison, Martin, Mecklenburg, Mitchell, Nash, Northampton, Pasquotank, Perquimans, Pitt, Polk, Rowan, Rutherford, Swain, Transylvania, Vance, Warren, Watauga, Wayne, Wilkes, Wilson, Yadkin, Yancey.

North Dakota

Counties of Adams, Billings, Bowman, Burke, Divide, Dunn, Golden Valley, Grant, Hettinger, McKenzie, McLean, Mercer, Morton, Mountrail, Oliver, Slope, Stark, Ward, Williams.

Oklahoma

Counties of Alfalfa, Atoka, Beaver, Beckham, Blaine, Bryan, Caddo, Carter, Choctaw, Cimarron, Coal, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Greer, Harmon, Harper, Hughes, Jackson, Jefferson, Johnston, Kingfisher, Kiowa, Love, McClain, Major, Marshall, Murray, Pittsburg, Pontotoc, Roger Mills, Stephens, Texas, Tillman, Washita, Woods, Woodward.

Oregon

Counties of Curry, Harney, Josephine, Lake.

South Carolina

Counties of Abbeville, Aiken, Allendale, Anderson, Bamberg, Barnwell, Cherokee, Chester, Edgefield, Fairfield, Greenville, Greenwood, Lancaster, Laurens, Lexington, McCormick, Newberry, Oconee, Orangeburg, Pickens, Richland, Saluda, Spartanburg, Union, York.

Tennessee

Counties of Anderson, Bedford, Benton, Bledsoe, Blount, Bradley, Campbell, Cannon, Carter, Cheatham, Claiborne, Clay, Cocke, Coffee, Cumberland, Davidson, DeKalb, Dickson, Fentress, Franklin, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Henry, Houston, Humphreys, Jackson, Jefferson, Johnson, Knox, Loudon, McMinn, Macon, Marion, Meigs, Monroe, Montgomery, Moore, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Robertson, Rutherford, Scott, Sequatchie, Sevier, Smith, Stewart, Sullivan, Sumner, Trousdale, Unicoi, Union, Van Buren, Warren, Washington, White, Williamson, Wilson.

Texas

Counties of Andrews, Aransas, Archer, Atascosa, Austin, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Brazoria, Brazos, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Chambers, Childress, Clay, Coke, Coleman, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dawson, Denton, DeWitt, Dickens, Dimmit, Duval, Eastland, Ector, Edwards, El Paso, Erath, Falls, Fayette, Fisher, Foard, Fort Bend, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Grayson, Grimes, Guadalupe, Hamilton, Hardeman, Harris, Haskell, Hays, Hidalgo, Hill, Houston, Howard, Hudspeth, Irion, Jack, Jackson, Jeff Davis, Jim Hogg, Jim Wells, Jones, Karnes, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Loving, McCulloch, McLennan, McMullen, Madison, Martin, Mason, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Motley, Navarro, Nolan, Nueces, Palo Pinto, Parker, Polk, Presidio, Reagan, Real, Reeves, Refugio, Robertson, Runnels, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Starr, Stephens, Sterling, Stonewall, Sutton, Taylor, Throckmorton, Tom Green, Travis, Trinity, Upton, Uvalde, Val Verde, Victoria, Walker, Waller, Ward, Washington, Webb, Wharton, Wichita, Wilbarger, Willacy, Williamson, Wilson, Winkler, Wise, Young, Zapata, Zavala.

Utah

Counties of Juab, Millard, Tooele.

Virginia

Cities of Bristol, Chesapeake, Emporia, Franklin, Galax, Norton, Radford, Suffolk, Virginia Beach. Counties of Bland, Brunswick, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Greenville, Isle of Wight, Lee, Mecklenburg, Montgomery, Pulaski, Roanoke, Russell, Scott, Smyth, Southampton, Sussex, Tazewell, Washington, Wise, Wythe.

Washington

Counties of Chelan, Clallam, Douglas, Grant, Grays Harbor, Jefferson, Mason, Okanogan.

West Virginia

Counties of Boone, Lincoln, Logan, McDowell, Mercer, Mingo, Monroe, Raleigh, Summers, Wayne, Wyoming.

Wisconsin

Counties of Adams, Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Door, Douglas, Dunn, Eau Claire, Florence, Forest, Iron, Jackson, Juneau, La Crosse, Langlade, Lincoln, Marathon, Marinette, Menominee, Monroe, Oconto, Oneida, Outagamie, Pepin, Pierce, Polk, Portage, Price, Rusk, St. Croix, Sawyer, Shawano, Taylor, Trempealeau, Vilas, Washburn, Waupaca, Wood.

Wyoming

Counties of Fremont, Lincoln, Sublette, Sweetwater, Uinta.